

**BEFORE THE ARKANSAS CEMETERY BOARD**

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IN THE MATTER OF

GUNN FUNERAL HOME, INC. D/B/A  
DIVINITY MEMORIAL GARDENS,  
LITTLE ROCK, ARKANSAS

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ORDER APPROVING A NEW  
PERMIT APPLICATION  
PURSUANT TO  
ARK. CODE ANN. § 20-17-1010

ORDER NO. 00-067-C

**ORDER**

On this 30th day of November, 2000, the matter of Gunn Funeral Home, Inc. d/b/a Divinity Memorial Gardens, Little Rock, Arkansas ("Applicant"), comes on to be heard by the Arkansas Cemetery Board ("Board"). From the Legal Notice and Agenda, proof of proper and timely publication of the same, testimony of Charles F. Handley, the exhibits and all other matters presented, the Board, being well and sufficiently advised as to all matters of fact and law herein, hereby finds, concludes and orders as follows:

**FINDINGS OF FACT**

1. On November 14, 2000, the Applicant filed an application for a permit to own and operate a new perpetual care cemetery in Little Rock, Arkansas.
2. This application contained the following documents and information which are required by the Act and the Rules issued by the Board.
  - A. Recommendation of the mayor of Little Rock, Arkansas.
  - B. A \$200.00 filing fee.
  - C. Proposed Rules and Regulations of the cemetery.
  - D. A proposed permanent maintenance trust agreement which reflects the Applicant will deposit twenty percent (20%) of the gross sales price of each paid-in-full burial space sale in the Trust Fund.
  - E. Proof of publication from a local newspaper that notice of the permit application had been filed with the Board.
  - F. A statement regarding the need for the proposed new cemetery.
  - G. A survey and map of the proposed cemetery.

- H. A copy of the Articles of Incorporation of the Applicant.
- I. A statement reflecting the cemetery is to be named Divinity Memorial Gardens.
- J. A statement that there are no pending legal proceedings against the Applicant, its officers or employees.
- K. A balance sheet on the Applicant which was prepared by an independent certified public accountant.
- L. A statement showing the estimated volume of sales for the first five (5) years of operations.
- M. A letter from the Arkansas Health Department which approved the land for the proposed cemetery.
- N. A statement reflecting that the Applicant does not own or operate any other cemetery.
- O. A statement that the Applicant is not a subsidiary of another corporation.
- P. A statement which reflects that the legal description of the land in Pulaski County, Arkansas, to be used and permitted as a cemetery is:

Lot 2. McDonald's Addition to the City of Little Rock being a part of the Southwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 8, T-1-N, R-12-W, Pulaski County, Arkansas, being more particularly described as follows:

Commencing at the Southwest corner of Block 10, C.E. Gallagher's Addition to the City of Little Rock, Pulaski County, Arkansas, said point of commencement lying at the intersection point of the North right-of-way line of West Roosevelt Road (U.S. Hwy. 67-70) and the East right-of-way line of Johnson Street; thence South  $89^{\circ} 19' 30''$  West 40.00 feet; thence South  $89^{\circ} 53' 00''$  West 35.29 feet; thence North  $00^{\circ} 07' 00''$  West 5.00 feet to a point on the North right-of-way line of West Roosevelt Road (U.S. Hwy. 67-70); thence South  $89^{\circ} 53' 00''$  West along said right-of-way 174.76 feet to the POINT OF BEGINNING; thence continuing along said right-of-way South  $89^{\circ} 53' 00''$  West 385.20 feet; thence along a curve to the right having a radius of 25.00 feet, an arc distance of 39.10 feet, and a chord which bears North  $45^{\circ} 18' 53''$  West 35.23 feet to a point on the East right-of-way line of Brown Street; thence along said East right-of-way line North  $00^{\circ} 30' 47''$  West 270.51 feet to the Northwest corner of said Lot 2, McDonald's Addition, said corner also being on the South right-of-way line of West 27<sup>th</sup> Street; thence along said South right-of-way line North  $89^{\circ} 53' 00''$  East 609.23 feet to the Northeast corner of said Lot 2, McDonald's Addition, said corner also being on the West right-of-way line of Johnson Street; thence along said West right-of-way line South  $00^{\circ} 40' 06''$  East 65.35 feet; thence South  $89^{\circ} 53' 00''$  West 200.00 feet; thence South  $00^{\circ} 40' 06''$  East 230.00 feet to the POINT OF BEGINNING containing 133,915 square feet, or 3.074 acres, more or less.

3. No protest to the application was filed.

#### **CONCLUSIONS OF LAW**

4. Ark. Code Ann. § 20-17-1008 and Rule 8 require any person or organization to file with and receive approval from the Board of a permit application before they can own and operate a perpetual care cemetery in Arkansas.
5. Ark. Code Ann. § 20-17-1008 and Rule 8 require an application for a perpetual care cemetery permit to contain certain specific information and documents.

#### **OPINION**

The Applicant has filed all of the information and documents needed and required by the Act and the Rules of the Board to be made a part of a perpetual care cemetery permit application except the following:

- A. A title insurance policy showing that the seller of the cemetery land has good title to the cemetery land.
- B. A statement from the proposed mortgageholder of the cemetery land stating that it will release its lien on all burial spaces sold to individuals for burial use.
- C. Proof that the Little Rock Planning Commission has approved the proposed land for use as a cemetery.
- D. An explanation of what appears to be a negative cash balance on the Applicant's balance sheet which was filed as part of the application.

#### **ORDER**

THEREFORE, IT IS HEREBY ORDERED that if the Applicant files with the Board within thirty (30) days the documents and information set forth in the preceding paragraph, the Applicant's application to own and operate a perpetual care cemetery will be approved and the Secretary of the Board is authorized to issue a permit to so reflect on the Applicant filing proof it has deposited \$5,000.00 to its Trust Fund.

IT IS FURTHER ORDERED that the Applicant shall deposit twenty percent (20%) of the gross sales price to the Trust Fund for each paid-in-full burial space sold in the Cemetery.

This order having been omitted from the records is entered nunc pro tunc.

DATED THIS 18<sup>th</sup> DAY OF DECEMBER, 2000

**ARKANSAS CEMETERY BOARD**

  
DILLARD MARTIN, CHAIRMAN

  
MAC DODSON, SECRETARY